

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

DAVID DELL'AQUILA, LORANnda
BORJA, TODD CHESNEY, and BRENT
WEBER, on behalf of themselves and all
others similarly situated,

Case No. 3:19-cv-00679

Plaintiffs,

v.

Judge William L. Campbell, Jr.

Magistrate Jefferey S. Frensley

WAYNE LaPIERRE, the NATIONAL
RIFLE ASSOCIATION OF AMERICA,
and NRA FOUNDATION, INC.,

Defendants.

**PLAINTIFFS' RESPONSE IN OPPOSITION
TO DEFENDANTS' MOTIONS TO DISMISS COMPLAINT**

The Plaintiffs, David Dell'Aquila, Lorannda Borja, Todd Chesney and Brent Weber, by and through counsel, file this Response in opposition to the Defendants' motions to dismiss the complaint. In support hereof, the Plaintiff states as follows:

Response

1. The Plaintiffs oppose Defendants' motions to dismiss for the reasons set forth in their accompanying memorandum of law.

2. As explained in such brief, Plaintiffs have standing to assert these claims.

3. This matter is governed by New York law because the NRA is incorporated in New York State. See First Nat'l City Bank v. Banco Para El Comercio Exterior de Cuba, 462 U.S. 611, 621, 103 S.Ct. 2591, 77 L.Ed.2d 46 (1983) (claims that involve the internal affairs of a corporation should be resolved in accordance with the law of the state of incorporation).

4. There is a line of cases in New York State which says that a donor has standing to sue a not-for-profit corporation for charity fraud.

5. Plaintiffs have stated valid claims against Defendants for common law fraud and violation of the federal RICO statute.

6. Plaintiffs have alleged all of the required elements of fraud and violation of the RICO statute. In addition, they have done so with a great deal of specificity. It is therefore proper for the Court to deny Defendants' motions to dismiss.

WHEREFORE, for the reasons stated above, the Plaintiffs respectfully request that this Honorable Court enter an order denying Defendants' motions to dismiss.

Respectfully submitted,

By: /s/ Elliott Schuchardt
Elliott J. Schuchardt
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CERTIFICATE OF SERVICE

I, Elliott J. Schuchardt, hereby certify that I served a true and correct copy of the foregoing Plaintiffs' Response in Opposition to Defendants' Motions to Dismiss Complaint on the following persons on this 4th day of March 2020 by means of the Court's CM / ECF system:

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